

Lead into quotations with substance

LEGAL WRITERS SOMETIMES INTRODUCE QUOTATIONS WITH STERILE, STOCK PHRASES like these: *The statute provides in pertinent part . . .*; *The court held . . .*; *The officer testified as follows . . .* Far better to introduce the quotation with a substantive point or summary, and then let the quotation reinforce or flesh out the lead-in. Consider this a form of signposting—that great boon to readers. See the Redlines column in Volume 105, No. 3 (Fall–Winter 2021).

A question that arises in this context: where to put the citation?

Before

Dr. Fleming opined that [the plaintiff showed various symptoms]. He concluded that the plaintiff would be unable to work due to depression and anxiety, though she was able to manage her own funds. With regard to his report, the ALJ stated as follows:

In a May 2006 mental-health questionnaire Dr. Fleming opined that the claimant would be unable to work because of alleged symptoms of depression and anxiety, diminished concentration, and impaired memory.

Better

But the ALJ pointed out problems with the doctor's findings:

In a May 2006 mental-health questionnaire Dr. Fleming opined that the claimant would be unable to work because of alleged symptoms of depression and anxiety, diminished concentration, and impaired memory.

Before

Hanson received a disciplinary case for assaulting an officer and failure to relinquish hand restraints. He forfeited 365 days of good-time credits as a result. He then brought suit, raising various claims, including one for excessive force. With regard to that claim, the district court stated as follows:

To recover damages for an allegedly “unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that [four items follow].”

Better

Regarding that claim, the district court said the plaintiff needed to prove that his conviction was invalid for one of four reasons:

To recover damages for an allegedly “unconstitutional conviction or imprisonment, or for other harm. . . .”

First, always avoid doubling up on the lead-in: “Title 18 U.S.C. § 3585(a) governs the date a federal sentence commences. ~~Section 3585(a) provides as follows:~~ [quotation].” The second sentence is surplus; a colon after the first sentence does the job.

Second, the one citation can be added in a footnote to the quotation, placed in the text right after the quotation, or (as in the previous example) included in the lead-in itself. I’ll discuss and illustrate these possibilities in the next column.

Now a few examples of better lead-ins.

Before

A statement we made in *Carnley v. Cochran* [citation omitted] is applicable here:

Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence which show, that an accused was offered counsel but intelligently and understandingly rejected the offer.

Better

In *Carnley v. Cochran*, we said that a waiver may not be assumed from mere silence:

Presuming waiver from a silent record is impermissible. The record must show, or there must be an allegation and evidence which show . . .

Before

As relevant here, § 1B1.8 provides as follows: “Where a defendant agrees to cooperate with the government by providing information concerning unlawful activities of others, and as part of that cooperation agreement the government agrees that self-incriminating information provided pursuant to the agreement will not be used against the defendant, then such information shall not be used”

Better

Section 1B1.8 describes the protections afforded to a cooperating defendant at sentencing:

[When] a defendant agrees to cooperate with the government by providing information



JOSEPH KIMBLE is an emeritus professor at Cooley Law School, senior editor of *The Scribes Journal of Legal Writing*, editor of the Plain Language column in the *Michigan Bar Journal*, and author of four books and many articles on legal writing (not to mention two children’s books). The latest book, written with Bryan Garner, is free online. *Google Essentials for Drafting Clear Legal Rules*.